

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.490 of 2007

22.1.2007

Between:

G.Yellaiah, S/o.Mallaiah
And others

... Petitioners

AND

Tellapur Gram Panchayat, Ramachandrapuram Mandal, Medak
District
And others

... Respondents

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ORDER:

The three petitioners statedly purchased house sites in survey No.324/2 in Tellapur village of Ramachandrapuram Mandal in Medak District from Industrial Employees Cooperative House Building Society (the Society). They made application to the first respondent, namely, Tellapur Gram Panchayat, on 25.9.2006 for building permission. The permission was not granted. Therefore, they filed the instant writ petition seeking a writ of Mandamus declaring that the permission applied for is deemed to have been granted as per the provisions of Section 127(3) of A.P. Panchayat Raj Act, 1994 (the act, for brevity). They also seek a direction to the respondents not to interfere with the possession or construction activity by the petitioners.

At the stage of admission itself, learned Standing Counsel for Tellapur Gram Panchayat submits that the Gram Panchayat considered the application of the petitioners and as there was a litigation about the land by resolution dated 12.10.2006, matter was referred to third respondent. He also submits that by memo No.2168/2006/A7-Pts., dated 31.12.2006, third respondent directed second respondent to visit the Gram Panchayat, Tellapur, and submit a report. Learned Counsel for petitioners, however, disputes this. He contends that the land in survey No.324/2 has already been converted into non-agricultural land and, therefore, there cannot be any objection for granting permission. He further submits that petitioners purchased the land from the society at whose instance the Government of Andhra Pradesh issued G.O.Rt.No.698, dated 21.6.1989 deleting the lands in survey Nos.324 to 343, 363 and 364 from the notification issued under

Section 4(1) of the Land Acquisition Act, 1894.

Section 121 of the Act provides that no construction shall be taken up without the permission of the Gram Panchayat granted in accordance with the provisions, Rules or Byelaws made under the Act. In exercise of the powers under Section 268 of the Act, Government of Andhra Pradesh promulgated A.P. Gram Panchayat Land Development (Layout and Building) Rules, 2002 (the Rules, for brevity). Rule 3 of the Rules mandates that every person, who intends to undertake or carryout layout or developmental work, shall made an application for layout permission complying with minimum requirements as stipulated in Rules 4 and 5 of the Rules. Rule 16 of the Rules provides that unless the site or parcel of the land is approved as building plot or forms part of approved layout, no application for building permission can be considered. A perusal of the G.O.Rt.No.698 itself would show that the Government exempted the lands of the society subject to *inter alia* condition that Hyderabad Urban Development Authority (HUDA) will prepare combined layout in consultation with the society and then release the layout to construct houses. No approval granted by HUDA or competent authority has been placed before this Court. Now that the third respondent directed second respondent to stop constructions and report compliance, it would be better that the second respondent looks into all these details and submit a report to third respondent, who shall then take necessary action on the reference made by the Gram Panchayat vide their resolution dated 12.10.2006. The third respondent may complete the exercise within a period of six weeks from the date of receipt of a copy of this order.

The writ petition, with the above observations and directions, is accordingly disposed of. No costs.

(V.V.S.RAO,J)

January 22, 2007.

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